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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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2016 APR -8 P 1:26

AZ CORP COMMISSION
DOCKET CONTROL

in the matter of:

DOCKET NO. S-20953A-16-0061

ROBERT J. MOSS AND JENNIFER L. MOSS,
husband and wife,

THE FORTITUDE FOUNDATION, an Arizona
corporation,

VENTURES 7000, LLC, an Oklahoma limited
liability company,

JEFFREY D. McHATTON AND STARLA T.
McHATTON, husband and wife,

ROBERT D. SPROAT AND JANE DOE SPROAT,
husband and wife,

KEVIN KRAUSE, a single man, and

VERNON R. TWYMAN, JR., a single man,

Respondents.

Arizona Corporation Commission

DOCKETED

APR 08 2016

DOCKETED BY

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THIRD
PROCEDURAL ORDER
(Extends Answer Date)

BY THE COMMISSION:

On February 23, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed a Temporary Order to Cease and Desist (“T.O.”) and a Notice of Opportunity for Hearing (“Notice”) against Robert J. Moss and Jennifer L. Moss, husband and wife, The Fortitude Foundation (“TFF”), an Arizona Corporation, Ventures 7000, LLC (“Ventures”), an Oklahoma limited liability company, Jeffrey D. McHatton and Starla T. McHatton, husband and wife, Robert D. Sproat and Jane Doe Sproat, husband and wife, Kevin Krause, a single man, and Vernon R. Twyman, Jr., a single man, (collectively “Respondents”), in which the Division alleged multiple violations of the Arizona Securities Act (“Act”) in connection with the offer and sale of securities in the form of interests, stock and promissory notes. Respondent spouses, Jennifer L. Moss, Starla T.

1 McHatton and Jane Doe Sproat, were joined in the action solely for the purpose of determining the
2 liability of the irrespective marital communities pursuant to A.R.S. 44-2031(C). It was further noted
3 by the Division that the Moss Respondents had been served on March 10, 2016, and objected to the
4 lengthy delay to file their Answer. Instead the Division proposed only a 10 day extension from the
5 current due date of April 11, 2016 to April 21, 2016.

6 Under the circumstances, a slightly longer period would be appropriate, and the Moss
7 Respondents should file their Answer by April 29, 2016.

8 As of the date of this Procedural Order, the following Respondents have been duly served with
9 copies of the T.O. and Notice: the Mosses; Ventures; the McHattons; TFF; and Kevin Krause.

10 On March 24, 2016, counsel for the McHatton and TFF Respondents filed a request for hearing
11 in this matter. The McHatton and TFF Respondents, with the agreement of the Division, also filed a
12 Stipulation that extends the date for the filing of their Answer to April 11, 2016.

13 On March 31, 2016, the Moss Respondents filed a request for a hearing and further requested
14 30 days to retain counsel and to file an Answer to the T.O. and Notice.¹

15 On April 4, 2016, by Procedural Order, it was found that ample time would be available for the
16 Moss Respondents to retain counsel and that the pre-hearing conference could go forward as scheduled
17 in approximately two and one-half weeks.

18 On April 6, 2016, the Division filed a response to the request for a 30 day delay by the Moss
19 Respondents. Therein, the Division noted the McHattons and TFF were represented by attorneys who
20 had earlier indicated their representation of those parties in the request for a hearing filed on March 24,
21 2016.

22 It was further noted by the Division that the Moss Respondents had been served on March 10,
23 2016, and objected to the lengthy delay requested by the Moss Respondents to file their Answer. Instead
24 the Division proposed only a 10 day extension from the current due date of April 11, 2016 to April 21,
25 2016.

26 Under the circumstances, it would be appropriate for the Moss Respondents to file their Answer
27 by April 29, 2016.

28

¹ The Moss Respondents, in their request for a hearing, appeared to also request similar relief for TFF.

1 IT IS THEREFORE ORDERED a **pre-hearing conference** shall be held on **April 20, 2016, at**
2 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, **Hearing Room No. 2,**
3 Phoenix, Arizona, as previously ordered.

4 IT IS FURTHER ORDERED that the Moss Respondents shall file their Answer by April 29,
5 2016.

6 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
7 Communications) is in effect and shall remain in effect until the Commission's Decision in this matter
8 is final and non-appealable.

9 IT IS FURTHER ORDERED that all parties must comply with Rules 31, 38, 39 and 42 of the
10 Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and
11 admission *pro hac vice*.

12 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
13 matter may opt to receive service of all filings in this docket, including all filings by parties and all
14 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
15 Commission's Hearing Division, via email sent to an email address provided by the party rather than
16 via U.S. Mail. To exercise this option, a party shall:

- 17 1. Ensure that the party has a valid and active email address to which the party has regular
18 and reliable access ("designated email address");
- 19 2. Complete a Consent to Email Service using the form available on the Commission's
20 website (www.azcc.gov) or a substantially similar format;
- 21 3. File the original and 13 copies of the Consent to Email Service with the Commission's
22 Docket Control, also providing service to each party to the service list;
- 23 4. Send an email, containing the party's name and the docket number for this matter, to
24 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
25 the Hearing Division to verify the validity of the designated email address;
- 26 5. Understand and agree that service of a document on the party shall be complete upon
27 the sending of an email containing the document to the designated email address,
28

1 regardless of whether the party receives or reads the email containing the document;
2 and

- 3 6. Understand and agree that the party will no longer receive service of filings in this
4 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless
5 and until the party withdraws this consent through a filing made in this docket.

6 IT IS FURTHER ORDERED that a party's consent to email service shall not become effective
7 until a Procedural Order is issued approving the use of email service for the party. The Procedural
8 Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing
9 Division has verified receipt of an email from the party's designated email address.

10 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter
11 via email does not change the requirement that all filings with the Commission's Docket Control must
12 be made in hard copy and must include an original and 13 copies.

13 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
14 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
15 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances at
16 all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
17 for discussion, unless counsel has previously been granted permission to withdraw by the
18 Administrative Law Judge or the Commission.

19 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
20 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
21 ruling at hearing.

22
23 DATED this 8th day of April 2016.

24
25 
26 MARC E. STERN
27 ADMINISTRATIVE LAW JUDGE
28

1 Copies of the foregoing mailed/delivered
this 8th day of April 2016 to:

2 Christopher Lonn

Michael Kitchen

3 MARGRAVE CELMINS, P.C

8171 East Indian Bend Rd, Suite 101

4 Scottsdale Arizona 85250

5 Attorney for Respondents Jeffrey D. McHatton and Starla T. McHatton and The Fortitude Foundation

6 Matt Neubert, Director

Securities Division

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11 By:



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